

David H. Madden
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Attorney for Plaintiff

United States District Court

District of Oregon

Portland Division

Darryl PICKENS, an individual
Plaintiff,

v.

Hon. Eric K. SHINSEKI,
Secretary of Veterans Affairs; and
DOEs 1 – 10,
Defendants

Case No.: 09-CV-704-KI

DECLARATION OF DAVID H. MADDEN IN
SUPPORT OF PLAINTIFF'S ATTORNEY'S
MOTION TO WITHDRAW AS COUNSEL
OF RECORD

I, David H. Madden, declare and state as follows:

1. I am the attorney for plaintiff in this action. My statements in this declaration are based on personal knowledge.
2. In April 2010, I received an order from the Oregon District Court appointing my law office to represent plaintiff in a first case (10-CV-236 AC) unless there was a conflict of interest that would prevent such representation, or there was no factual or legal basis for plaintiff to prevail on any claim.

3. Upon investigation, I learned that plaintiff had earlier filed another action (09-CV-704 KI), based on the same acts or occurrences. It appeared that plaintiff had factual and legal basis to prevail on at least one claim.
4. I proposed consolidating the '236 and '704 cases and pursuing plaintiff's claims in '704, a proposal which was accepted by plaintiff and both judges.
5. On 25 June 2010, I filed an amended complaint in the '704 case, and thereafter served defendants, propounded discovery, and successfully resisted a dispositive motion.
6. On at least two occasions, plaintiff has expressed to this Court his dissatisfaction with my efforts.
7. Relations between myself and my client have deteriorated to the point that it is no longer possible for me to effectively pursue plaintiff's claims in this case.
8. I have reason to anticipate an ancillary proceeding that, had it existed at the time I received the Court's order to represent plaintiff, would have operated as an absolute bar to accepting this representation.
9. I believe that the threat of the ancillary proceeding will prevent me from continuing to provide competent and diligent representation of plaintiff in this matter.

I hereby declare that the foregoing statements are true to the best of my knowledge and belief, and I understand that they are made for use as evidence in court and are subject to penalty for perjury.

25 May 2011

Date

/s/David H. Madden/

David H. Madden, OSB No. 080396